

TWENTY-SEVENTH DAY
(Tuesday, March 14, 1989)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Absent-excused: Glasgow, Santiesteban.

A quorum was announced present.

The Reverend James E. Bennett, St. Martin's Lutheran Church, Austin, offered the invocation as follows:

We pray, O God, as we gather this day, that You will reveal Yourself and Your will to the leaders of this State.

Help them to see the right way to preserve the things so dearly bought and to resolve the difficulties that seem so great.

Inspire their thoughts by the mind of Christ coming into their minds and grant them the courage to challenge all people of this State to accept the responsibilities of citizenship.

Guide us in our search for right and justice for all, parent and child, the young, those who learn, and those who serve.

May we not be afraid to face facts, however unpleasant. Take away all fear that we may be able to breathe the pure air of high ideal and lofty purpose.

For the sake of all persons in this State, for the sake of the common good, for the sake of fairness, and for Your sake, O God, help us all to do the right thing, through Christ our Lord. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Santiesteban was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Brooks.

REPORT OF STANDING COMMITTEE

Senator Montford submitted the following report for the Committee on State Affairs:

S.B. 544
S.B. 425
C.S.S.B. 378
C.S.S.B. 317
C.S.S.B. 559
C.S.S.B. 158
C.S.S.B. 318

BILL AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill and resolution:

H.B. 251
H.C.R. 122

MESSAGE FROM THE HOUSE

House Chamber
March 14, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 239, Relating to retirement benefits and administration of and member contributions in certain retirement systems for fire and police personnel.

S.C.R. 62, Recognizing March 14, 1989, as "Shamu and the Texas Tuxedos Day."

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILLS ON FIRST READING

On motion of Senator Green and by unanimous consent, the following bills were introduced, read first time and referred to the Committee indicated:

S.B. 1526 by Green Intergovernmental Relations
Relating to the licensing and regulation of pilots rendering pilot services to or from ports located in Harris County, Texas, and amending Articles 2, 3 and 5 of Chapter 185 page 441, 67th Legislature 1981 (Article 8280a, Texas Civil Statutes).

S.B. 1527 by Zaffirini, Brooks Health and Human Services
Glasgow, Tejeda, Truan
Relating to the establishment of an office for the prevention of developmental disabilities.

S.B. 1528 by Glasgow Intergovernmental Relations
Relating to the authority of a home-rule municipality to annex certain area in which a farm-to-market road is proposed.

CO-AUTHOR OF SENATE BILL 152

On motion of Senator Barrientos and by unanimous consent, Senator Truan will be shown as Co-author of **S.B. 152**.

CO-AUTHOR OF SENATE BILL 712

On motion of Senator Caperton and by unanimous consent, Senator Edwards will be shown as Co-author of **S.B. 712**.

CO-AUTHOR OF SENATE BILL 959

On motion of Senator Brooks and by unanimous consent, Senator Parker will be shown as Co-author of **S.B. 959**.

CO-AUTHOR OF SENATE BILL 1081

On motion of Senator Edwards and by unanimous consent, Senator Harris will be shown as Co-author of S.B. 1081.

CO-AUTHOR OF SENATE BILL 1170

On motion of Senator McFarland and by unanimous consent, Senator Brooks will be shown as Co-author of S.B. 1170.

CO-AUTHORS OF SENATE BILL 1107

On motion of Senator Carriker and by unanimous consent, Senators Johnson and Truan will be shown as Co-authors of S.B. 1107.

CO-AUTHOR OF SENATE BILL 40

On motion of Senator Green and by unanimous consent, Senator Tejeda will be shown as Co-author of S.B. 40.

CO-AUTHOR OF SENATE BILL 1257

On motion of Senator Sims and by unanimous consent, Senator Bivins will be shown as Co-author of S.B. 1257.

CO-AUTHOR OF SENATE BILL 67

On motion of Senator Whitmire and by unanimous consent, Senator Barrientos will be shown as Co-author of S.B. 67.

CO-AUTHOR REMOVED FROM SENATE BILL 1376

On motion of Senator Tejeda and by unanimous consent, Senator Tejeda's name will be removed as a Co-author of S.B. 1376.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
March 14, 1989

TO THE SENATE OF THE SEVENTY-FIRST LEGISLATURE,
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE LOWER COLORADO RIVER AUTHORITY
BOARD OF DIRECTORS FOR TERMS TO EXPIRE FEBRUARY 1, 1995:

JOHN H. HILL
Cypress Mill Ranch
Cypress Mill, Texas 78654

Mr. Hill will be replacing Pinky Wilson Scanlan of La Grange whose term expired.

MR. ALEXANDER HAMILTON MASSAD
2703 Hillview
Austin, Texas 78703

Mr. Massad will be replacing James A. Martin of Austin, whose term expired.

Respectfully submitted,
/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

(Senator Brooks in Chair)

GUEST PRESENTED

Senator Barrientos introduced Ms. Jean Zurow, a teacher in the Austin Independent School District, accompanied by Representative Linebarger, House sponsor of S.C.R. 55.

Ms. Zurow and Representative Linebarger were escorted to the President's Rostrum for a presentation of an enrolled copy of S.C.R. 55, designating the month of March as Youth Art Month, adopted earlier by the Senate.

GUEST PRESENTED

Senator McFarland was recognized and presented Dr. Steve Gellman of Coppell.

The Senate welcomed Dr. Gellman, a participant in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, and expressed appreciation for his contributions today.

SENATE RESOLUTION 248

Senator Sims offered the following resolution:

S.R. 248, Congratulating the members of the Independent Cattlemen's Association of Texas on its 15th anniversary.

The resolution was read and was adopted viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 417 ON SECOND READING**

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 417, Relating to the continuation, operation, and administration of the Central Education Agency and to the participation of the Central Education Agency and certain other state agencies in a competitive cost review program; providing a penalty.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 417** by adding Section 1.021 as follows:

SECTION 1.021. Amend Chapter 11, Education Code, by adding Section 11.021 as follows:

Section 11.021. Cooperation between State Agencies of Education.

(a) It is the policy of the state of Texas that the entire system of education supported with public funds be coordinated to provide the citizens with efficient, effective, and high quality educational services and activities. The State Board of Education and the Texas Higher Education Coordinating Board, in conjunction with such other agencies as may be appropriate, shall ensure that long-range plans and educational programs established by the boards complement the functioning of the entire system of public education, extending from early childhood education through postgraduate study. In assuring that plans and programs are coordinated the boards shall utilize the Joint Advisory Committee established under Section 61.077 of this Code. (b) The Joint Advisory Committee shall coordinate

plans and programs of the two boards, including curricula, instructional programs, research, and other functions as appropriate. This coordination shall include, but is not limited to, the following area:

- (1) equal educational opportunity for all Texans;
- (2) college recruitment, with special emphasis on the recruitment of minority students;
- (3) preparation of high school students for further study at colleges and universities;
- (4) reduction of the dropout rate and dropout prevention;
- (5) teacher education; and
- (6) testing and assessment.

The amendment was read and was adopted viva voce vote.

Senator Uribe offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 417 by deleting on lines 67, 68, 69 of p. 4 the following language:

"The rules may not provide that a person may be certified under this section only if there is a demonstrated shortage of teachers in a school district or subject area"

The amendment was read and was adopted by the following vote: Yeas 19, Nays 10.

Yeas: Armbrister, Barrientos, Caperton, Carriker, Dickson, Edwards, Green, Johnson, Krier, Montford, Parker, Parmer, Ratliff, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Bivins, Brooks, Brown, Haley, Harris, Henderson, Leedom, Lyon, McFarland, Sims.

Absent-excused: Glasgow, Santiesteban.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.S.B. 417 as follows:

1. On page 3, line 34 after the word "MINORITY" insert the words "AND FEMALE-OWNED".
2. On page 3, line 35 after the word "minority" insert the words "and female-owned."
3. On page 3, line 40 after the word "minority" insert the words "and female-owned."
4. On page 3, line 51 after the word "minority" insert the words "and female-owned."

The amendment was read and was adopted viva voce vote.

On motion of Senator Green and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 417 ON THIRD READING**

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 417 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent-excused: Glasgow, Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Santiesteban.

**COMMITTEE SUBSTITUTE
SENATE BILL 127 ON THIRD READING**

Senator Green moved that the regular order of business be suspended and that C.S.S.B. 127 be placed on its third reading and final passage.

C.S.S.B. 127, Relating to the supplemental compensation of the district and appellate judges in Harris County.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Barrientos, Brooks, Brown, Carriker, Dickson, Edwards, Green, Henderson, Leedom, Lyon, Montford, Parker, Parmer, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffrini.

Nays: Bivins, Caperton, Haley, Harris, Johnson, Krier, McFarland, Ratliff, Sims.

Absent-excused: Glasgow, Santiesteban.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Bivins, Caperton, Haley, Harris, Johnson, Krier, McFarland, Ratliff and Sims asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 872 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 872, Relating to the transfer of a certain amount of unencumbered state revenue to the economic stabilization fund.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 872 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 872 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent-excused: Glasgow, Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Santiesteban.

SENATE BILL 571 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 571, Relating to the punishment for the offense of criminal trespass committed in a shelter center.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 571 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 571** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent-excused: Glasgow, Santiesteban.

The bill was read third time and was passed viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 440 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 440, Relating to the waiver of a probation revocation hearing by certain defendants.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 440 ON THIRD READING

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 440** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent-excused: Glasgow, Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Glasgow, Santiesteban.

SENATE BILL 510 ON SECOND READING

On motion of Senator Tejeda and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 510, Relating to the application of the Neighborhood Nuisance Abatement Act.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 510 ON THIRD READING

Senator Tejeda moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 510** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent-excused: Glasgow, Santiesteban.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 413 ON SECOND READING**

Senator Harris moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 413, Relating to the form and effect of a loan agreement.

The motion prevailed by the following vote: Yeas 25, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Edwards, Green, Haley, Harris, Henderson, Krier, Leedom, McFarland, Montford, Parker, Parmer, Ratliff, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Caperton, Dickson, Johnson, Lyon.

Absent-excused: Glasgow, Santiesteban.

The bill was read second time.

Senator Edwards offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 413** by adding Sec. 26.02(e) as follows:

(e) IN A LOAN AGREEMENT UNDER THIS SECTION, THE FINANCIAL INSTITUTION SHALL GIVE NOTICE TO THE DEBTOR OR OBLIGOR OF THE PROVISIONS OF THIS ACT. SUCH NOTICE MAY BE IN A SEPARATE DOCUMENT SIGNED BY THE DEBTOR OR OBLIGOR, WITNESSED, AND ATTACHED TO THE LOAN AGREEMENT, OR IT MAY BE INCORPORATED INTO THE LOAN AGREEMENT. THE NOTICE SHALL STATE SUBSTANTIALLY THE FOLLOWING:

“THIS WRITTEN LOAN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

DEBTOR

FINANCIAL INSTITUTION

SUCH NOTICE SHALL BE IN TYPE THAT IS BOLDFACED, CAPITALIZED, UNDERLINED, OR OTHERWISE SET OUT FROM SURROUNDING WRITTEN MATERIAL SO AS TO BE CONSPICUOUS.

The amendment was read and was adopted viva voce vote.

Senator Parmer offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 413 by adding a new subsection (f) as follows:

(f) All financial institutions shall conspicuously post notice which informs borrowers of the provisions of this section. Such notices shall be located in such a manner and in places in the institutions so as to fully inform borrowers of the provisions of this act. The Finance Commission of Texas shall prescribe the language of such notice.

The amendment was read and was adopted viva voce vote.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 413 ON THIRD READING**

Senator Harris moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 413 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Edwards, Green, Haley, Harris, Henderson, Krier, Leedom, McFarland, Montford, Parker, Parmer, Ratliff, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Caperton, Johnson, Lyon, Washington.

Absent-excused: Glasgow, Santiesteban.

The bill was read third time and was passed viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
March 14, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 248, Relating to the exemption of certain structural movers from regulation by the Railroad Commission of Texas.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 655 REREFERRED

On motion of Senator Parker and by unanimous consent, S.B. 655 was withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on Finance.

SENATE BILL 721 REREFERRED

On motion of Senator Parker and by unanimous consent, **S.B. 721** was withdrawn from the Committee on State Affairs and rereferred to the Committee on Finance.

SENATE BILL 914 REREFERRED

On motion of Senator Caperton and by unanimous consent, **S.B. 914** was withdrawn from the Committee on Finance and rereferred to the Committee on Intergovernmental Relations.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 124 - (Henderson): Commending John W. Phenicie, vice-president of the Houston Region of Amoco Production Company, on his leadership role in the Houston community.

S.R. 246 - By Green: Recognizing the contributions of Lowell Overby to the Northeast Young Men's Christian Association.

S.R. 247 - By Green: Extending congratulations to Fritz Lanham for his superlative career of service and dedication to the people of Baytown.

S.R. 249 - By Ratliff: Extending congratulations to Constance Ware on being honored by the Marshall Chamber of Commerce as its Outstanding Citizen for 1988.

S.R. 252 - By Barrientos: Extending welcome to Maureen Sweeney Syring.

S.R. 253 - By Whitmire: Extending congratulations to Mr. and Mrs. J. E. Booth, Sr., on their 35th wedding anniversary.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 12:21 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

Signed by Governor
(March 13, 1989)

S.C.R. 53

H.C.R. 57

H.C.R. 113

H.C.R. 120

H.C.R. 130

Sent to Governor (March 14, 1989)

S.C.R. 55

S.B. 186

TWENTY-EIGHTH DAY

(Wednesday, March 15, 1989)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.